IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13017 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VADODARA DISTRICT PANCHAYAT THRO' DISTRICT DEVELOPEMENT - Petitioner(s)
Versus
INDRAVADAN ISHWARBHAI PATEL & 9 - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1, 3,
MR SHITAL R PATEL for Respondent(s) : 1,4 - 5,7 - 8.
NOTICE SERVED BY DS for Respondent(s) : 2,4 - 10.

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 09/04/2007

ORAL JUDGMENT

Rule. Mr.Shital R. Patel, learned advocate waives service of rule. Present is the petition

filed against the order passed below exh.46 in Regular Civil Suit No.1136 of 1991 by the learned Civil judge (SD), Vadodara dated 06.03.2006. By the order under challenge the learned 11th Joint Civil Judge has allowed the Sarpanch; Talati-cum- Mantri, Gram Panchayat, Ranoli to be impleaded as respondent no.9 and the Appellate Committee of the District Panchayat, through the District Development Officer of the District Panchayat, Vadodara as respondent no.10.

The grievance of the plaintiffs who filed this Exh.46 application was that by orders of the aforesaid authorities, rights of the plaintiffs were adversely affected. Even if that is so, proper course is to challenge the order passed by particular authority before appropriate authority.

At this juncture, Mr.Shital R. Patel, learned advocate for the respondents-original plaintiffs submitted that a Revision application is already filed before the appropriate authority-State Government. He submitted that it is at the instance

of some officers in the aforesaid authority, that the orders were passed knowing well that by these orders, rights of the plaintiffs are adversely affected.

Even if that is so, remedy is to take up the matter by filing appropriate proceedings against the officers in their individual capacity. The authority cannot be joined as party respondent in the suit.

In view of the aforesaid discussion, order dated 06.03.2006 is hereby quashed and set aside. It is, however, clarified that quashing of this order will not bar/ mar the rights of the plaintiffs to take appropriate proceedings against the erring officer. Rule is made absolute. No order as to costs.

(RAVI R. TRIPATHI, J.)

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